

To the Right Honourable the Lords of Council and Session,

T H E

P E T I T I O N

O F

Mr. James Greenfields Minister of the Gospel,



Humbly Sheweth

THAT your Petitioner having presented a Bill of Suspension to your Lordships, of a sentence of Imprisonment pronounced against me, by the Magistrates of *Edinburgh*, whereupon I being now detained in prison these nine or ten weeks, my Bill did therefore bear a charge to put at Liberty.

Your Lordships were pleased to refuse my Bill upon this ground, that I was not a Minister, having been ordained by an Exauktorat Bishop.

In my Bill of Suspension, I did lay before your Lordships the reason of my being in this City, and what induced me to perform Divine worship after the Form of the Church of *England* in this place: and did endeavour to make it clear and Evident that as there was no Law against the performing of Divine worship in that manner, and consequently no Transgression; so there was no Law or Statute empowering the present established Church of *Scotland* to prosecute and judge one duly qualified to the Government, for Exerceing the Office of the Ministry in a private way, being blameless in his life and Orthodox in his Doctrine. But it never entered my thought that your Lordships would have taken notice of or questioned the validity of my Ordination. And seeing that your Lordships did go solely and allenarly upon that ground, and find me to be not a Minister but a Lay-man, as having received my Ordination from an Exauktorat Bishop, and therefore refused my Bill.

I do with all Submission take leave to reclaim against your Lordships Sentence, upon the foresaid ground, and shall endeavour to make it Evident to your Lordships, first; that the validity of my Ordination was not the ground that regularly your Lordships should have had under consideration at the advising of my said Bill. And then 2dly That my said Ordination is as valid as the Ordination of any other Minister of the Gospel whatsoever.

For clearing of the first, I must beg your Lordships patience to inform you that upon the 2d day of *September* last, I was cited to compear before the Presbytery of *Edinburgh*, only to give an account of my self, as being a Stranger in the place, and taking upon me to exercise the office of the holy Ministry, and conven people to hear me, without the Authority of any Judicatory; as the Copy herewith produced will instruct. I did very readily comply with the Presbytery, so far as to compear, and did produce to them my Letters of Orders, by the late Bishop of *Ross* in *Scotland*; and my Letters of Cure to the Church of *Tynan* in *Ireland* by his Grace the late Lord Primate of all *Ireland*, approved of at several visitations. As also very ample Certificates by his Grace the present Lord Primate of all *Ireland*, and under his Archbishopial Seal, and from his Vicar General, and others of the Clergy of the Diocese of *Armagh* (wherein I Exerced my Ministerial function) of my qualifications and good behaviour there, for the space of twelve years. And of my good affection to Her Majesty and her Government, which is also attested under the hands of several Honourable Gentlemen of the Parish where I served the Cure, and the Neighbourhood thereof, which I did think fully answered the reason of my being

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ing cited before them. But they proceeding further to question me, with respect to some Acts of their *Commissions of Assemblies*, I neither knowing, nor being concerned to know any thing of these matters, they being no Laws or Statutes of this Realm, nor being cited to any such purpose, I did therefore decline their Jurisdiction, upon which they forthwith proceeded and gave Sentence discharging me to preach, within the bounds of their Presbytry. And the reasons of their Sentence are, *First*, because of my high contempt of their Authority, in declining their Jurisdiction. And *Secondly*, Because I was introducing a *Form of worship* contrary to the Purity and Uniformity of the worship of this Church established by Law, without their allowance. As appears from a true copy thereof hereunto subjoined. But none of the reasons given for their sentence is, because my Ordination is invalid, as flowing from an Exauctorat Bishop, albeit they do mention in their Sentence, that I did produce an act of Ordination by an Exauctorate Bishop, but do not give that as any of the reasons thereof. And the Magistrates of *Edinburgh* do not in the least meddle in the Case, as would appear by their sentence, but they refuse to give me an Extract thereof, as an Instrument requiring it, herewith produced, will testify, but simply interpose their Authority to the Presbyteries Sentence, and for alledged Contravention thereof have put and detained me in Prison, now these ten Weeks as aforesaid.

This being the true State of the Charge and Sentences against me, it is Evident that the foresaid reason of your Lordships refusing my Bill, is not the cause of the said Sentences Pronounced against me, either by the Presbytery or the Magistrats, and had this been taken notice of by your Lordships at advising of my Bill, it could not have been possibly refused upon any such Reason, for when a Suspension of a Sentence or Decreet is offered to your Lordships, the Sentence is to be considered according to its Tenour as it stands, and no ways to be supported and confirmed with any other Reasons than such whereupon it proceeds: And therefore I conclude that the Magistrats of the Good Town have not Exhibit to your Lordships, more than they'll do to me, the Sentence whereupon their Warrant for my Imprisonment proceeded; but from what reasons I leave your Lordships to judge, they have industriously amused your Lordships in their Answers to my Bill, by founding upon Reasons altogether Foreign and Extraneous to the Purpose. And therefore I must plead the benefit of your Lordships Justice, that ye will be pleased to Re-consider my case and Examine the Sentence of the Magistrats, and their Warrant of Imprisonment, as they stand supported with their own Reasons, so that I may not be detained in Prison and deprived of my Natural Liberty, and of all the benefits thereof, upon a Reason for which I am under no Sentence: and I am the more hopeful that your Lordships will comply with so just a Demand, since 'tis your Lordship's practice in all such cases; for it was never heard that a Decreet was otherways supported, than with the reasons whereupon it proceeded, and I am fully perswaded that tho your Lordships were capable of deviating from Established Rules, ye would never have made choise to do it in this present case, since it brings before your Lordships a Question never before Stated or determined before your Honourable Court, nor before any other Christian civil Judicatory.

But seeing that your Lordships Reasoning upon that matter in my case, seemed to differ from the Opinion and Judgement of all Christian Churches and States in the World. I shall therefore endeavour in the next place to make it Evident and clear, that my Ordination, as it stands, is Valid, according both to Episcopal and Presbyterian principles: and that I ought not to be stopt or Impeded in the Exercise of the Ministerial Function, much less detained in Prison upon that account.

The power and Faculty of Preaching the Gospel, Administring Sacraments, giving Holy Orders, &c. are of Divine Original, flowing from *Jesus Christ, head of his Church*, and these powers have been exercised, not only Independent of the Civil Magistrate, but even *oppugnante et reluctante Magistratu*, so the Apostles preached and Exercised their Office after they were prohibited by the *Jewish Sanedrim*, which was the Supream Court of that Nation, and whose Authority they owned, but could not comply with, when it interfered with the Command of GOD; And therefore St. Peter stood up and said, in the face of the Court, *we ought to obey God rather than Man*. St. Paul and Silas also were cast into Prison at *Thyatira*, but

but tho they were under the Sentence of the Law, they ceased not to exercise their Ministry, for they first Preached the Faith to the Jaylor, and then Baptized him & all his Family. And from the Apostles were continued downwards in an interrupted Succession, the Bishops, Presbyters and Deacons in the Christian Church, who performed the Offices of their Respective Functions, without regard to the Magistrats Prohibition or Restraint: & when the State became Christian, *Athanasius* & many Catholick Bishops were Exauctorated under the *Arian* Persecution, by *Constantius*, *Valence* and others, and yet the Ordinations and other Deeds of these Exauctorated Bishops were not only sustained Valid but highly approved.

By all which it appears, that the Laws then in being, did both Condemn the Religion and discharge the Offices, yet for all their being thus Exauctorated by the Secular Power, and hindered from enjoying Benefices and other External things that depend upon Civil Government, their Acts of Ordination, and others that are Intrinsic to their Office, were validly performed, as all Churchmen do agree in.

There is a vast difference betwixt the abolishing the Order of Episcopacy, and Exauctorating in strict and true sense, that is the Deposing a Bishop: the effect of the former is meerly its ceasing to be any part of the legal Policy or constitution of the Church, to which the Law gives any Encouragement the other, presupposing a real or pretended Crime in a Person, infers an inhability upon that person to exercise those Spiritual powers conveyed to him by the Church, from our Saviour the Head of it.

Now the Act of Parliament abolishing Episcopacy, only affecting an Order, but not respecting the persons of the men, or considering them in the least, whither worthy or unworthy of their Spiritual Office, can never be supposed any manner of way to affect, far less to Depose them of the Exercise of these Spiritual Powers that are Intrinsic to their Office; and in consequence to this, whatever Spiritual powers they exercise among those who submit unto them, must needs be unacceptably valid, notwithstanding any Act of State in abolishing their Order.

But now to bring the case nearer home, these Presbyterian Ministers who were ousted and Exauctorated by the Civil Power, after the Year 1660, did never esteem any Deed of the State to have deprived them of their Spiritual power, but continued to Exercise all the parts of it, and particularly did by Imposition of Hands Convey their power to others, who by virtue thereof did perform the part of Ministers, and are at this present actual Ministers in several Parishes of *Scotland*, without any other Solemnity constituting them Ministers.

But to put the Case in a true Light; there are two things in this matter to be considered, which are in themselves Distinct, which when confounded breed perplexity in this case: There is the power it self, which being a meer spiritual power and from God, cannot be taken away by any Civil Power or Magistrate: then there is the Exercise of this Spiritual power, which falls under the Regulation of the Magistrat, by countenancing & encouraging it by Franchises and Priviledges which being the Magistrats Gift, may again be taken away at pleasure; or by making the exercise of this Spiritual Power Penal, and inflicting punishments in case of Disobedience, the whole effect whereof is to render the Transgressor lyable to punishment, but can never amount to invalidat the deeds done in Virtue of a power, derived from God, and not from any Civil power in nature.

By this distinction, the matter is very clear, and it can never be understood that this spiritual intrinsic power was touched by that act, that abolished *Episcopacy*; It only declared that the Superiority of Bishops over Presbyters was no longer to be continued in the Government of this Church, but could never denude them of their Spiritual power, in respect whereof they still continued to be Bishops of the *Catholick Church*, and accordingly all there deeds were and have been held to be valid Deeds of a Bishop: and particularly by the Bishops of *Ireland* in your Petitioners present Case, and by the Bishops of *England* also in many like Cases.

Though we are on good grounds offended with the constitution of the *Roman Church*, and the abuses that are brought into the Offices of Ordination, and though the Pope and all *Popish* Bishops stand Exauctorated by the Laws of *Great-Britain* and *Ireland*, yet we sustain their Ordination as valid, so that no where is a Priest, when

when he comes over from them to us Protestants, obliged to receive imposition of hands *de novo*, and when in that Case the Ordination is not quarrelled, what reason can there be for calling in question an Ordination performed by a Protestant Bishop with the Concurrence of other Presbyters, according to the express *Rubrick* of the *English* Ordinal, by which it was performed, and according to the prescription whereof some Presbyters were assisting, and concurring also by their imposing of their hands, by which I become a Minister of the *Catholic Church* and have power to exercise my Ministerial office, within any part of the same.

Further; the *Presbyterian* Ministers themselves, who disown and decry the Office of a Bishop will not dispute an Exauktorat Bishops right to be a Presbyter, in verue whereof, upon their own principles, he had power *qua Presbyter*, with Concurrence of other Presbyters, to conferr the power of the Ministry, and upon the supposition that I were to enter, and to be received into the Communion of the present Established Church of *Scotland*, it is humbly conceived, that they would sustain my former Ordination by the Exauktorat Bishop, to be *valid*, and that they would not oblige me to receive imposition of hands from them *de novo*, whereof there be notour instances, particularly of Mr. *Guthrie* admitted by them a Minister in *Orkney*, who had been ordained by an Exauktorat Bishop, as we can instance in others also

As for that alledgeance; that the Act of Parliament establishing *Episcopacy* and the *Act Assertory* making the external Government of the Church to depend upon the *Regal power*: it is answered; that it is evident from the very terms of the Act for restoring and Re-establishing of Bishops, the power their claimed by the King is only exclusive of any other foreign power, and justifying the application of the Civil power to the Case then in hand, as doing nothing but what the King and Parliament might Lawfully do; and therefore the Act does not pretend to give a new Right, but to redintegrate the state of Bishops, to their former just Rights, whereof they were violently disseized, and restores the ancient Government of the Church, as the Government most agreeable to the Word of God: and if the *Act Assertory* seem to carry the matter further, yet the mistake is removed by King *Charles* the 2d. who in his Explanation of the *Test*, does solemnly declare, that by any power claimed by him over the Church or Church-men, he never intended to Intrench upon their Intrinsick Spiritual power, which he allowed to be as fully and amply enjoyed by them, as it was in the three first Centuries of the Church, before the Magistrat became Christian; But to subject the Spiritual power of Church-men so absolutely to the secular power, as that by any Act of the State, they could be devoted of their Character, is not only to joyn issue with *Erastus*, but to strain beyond him, into the Execrable Principles of *Hobbs*.

From what is above represented, I presume it is evident, that I have not usurped, nor invaded the Sacred Office of the Ministry, without sufficient authority, which had I done, I acknowledge that my Punishment deserves to be greater than what I have yet met with; that being indeed an Iniquity that ought to be punished by the Judge. So that the only thing can be laid against me, is the performing of the Service of the Church of *England* within this City, To which I hope it is a sufficient answer, that there is no Law nor Statute against it, and my doing of it upon the account of some people of the *English* Nation residing or trading here, who being educated in the Communion of the Church of *England*, and so were not acquainted with any other Form, to whom it were hard to deny that Liberty, makes my Case the more favourable, especially since it was no new thing in this place, I having seen and known that Form of worship practised and observed within this City, in several places, for upwards of twenty years past. And even since the Revolution, so little doubt was made of the *English Service* being allowable here, that Sir *James Lesly* Collonell of an *English* Regiment, had his Chaipman still attending him, and in many Towns publickly officiating by that service, and particularly at *Stirling*, he possessed himself of the West-Church for the more convenient and solemn performance, and this was not to much as gruded or complained upon, tho the Law had then established the *Presbyterian Government* and Worship. And that the same was very publickly used during the Reign of King *Charles* the 2d, in his own

own Palace of *Holy-Rood-house*, for the use of her present Majesty, when her Father resided here, and the same was also used in all the publick Offices of Consecration of Bishops, and Ordination of Ministers, where the Service and Forms of the *English Liturgy* were made use of, in the *Cathedral Churches* of *St. Andrews*, *Glasgow*, *Edinburgh*, and others. And was with very great advantage (as it is at this very day) made use of as the publick Form of Devotion in sundry families of Quality, in this *North-Britain*; and therefore to punish a Protestant Minister with so long Imprisonment, that is duely qualified, for using the *English Service* to *Englishmen*, whose Stations or private business gave them ground to stay here, cannot but seem very hard, whereas in those places where the *Romish Inquisition* prevails, *English Protestants* and their Form of worship finds better quarter then they do here in *North-Britain*; for her Majesties Troops in *Spain* and *Portugal* are allowed the free Exercise of their Religion, which is denied to her Majesties Servants here, when he who did officiat to them is thus treated.

And this long continued practice both before the Revolution and since, of using the *English Service* by all who would within this Nation, is founded upon an indisputable Maxim of Divinity, and I presume of Law also, which is, that what is lawfull and not forbidden, is permitted; and this I take to be the Case of the *English Service* to this day.

Neither does the using of the *English Service* clash with any Law, establishing Uniformity of worship, or the Act of *Union* ratifying it, for those Acts, most clearely relate only to the *Presbyterian Church*, within her self, and not to those who are without her: those Acts do indeed secure the *Presbyterian Church* from having any innovation of worship imposed upon her but are no ways inconsistent with another Form of Worship, being used by others out of her Communion: for by the Act of *Union*, the Church of *England* has the very same security for her Government, Policy and Form of Worship, as the *Presbyterians* have here for theirs, and seeing the practising another Form of Worship, without the Church of *England*, while no Innovation is made upon that Church within her self, is understood to be very consistent with the securitie of her Worship, and the Act of *Union* ratifying it, it is not then to be understood how the very parallel practice here should be reckoned an innovation, derogat from the security of the *Presbyterian Form* of worship, or interfere in the least with the Act of *Union* ratifying it, both Churches (as is said before) being upon the same foot, and having the very same mutual security against any change of their Government and policy, or any innovation of worship.

Nor to give your Lordships any further trouble; Imprisonment, being the Restraint of Natural Liberty is amongst the severest of Arbitrary punishments, and no ways founded in Law; but to imprison and Incarcerat any person *sine die*, is contrary to Law, and is one of the grievances complained of in the *Claim of Right*, and my Case is no better, the condition of my Liberation being such as I cannot fulfill without declaring my self unworthy of the *Holy Character* I bear, for tho others may put a restraint upon me, I can by no means do it my self: For suppose that I were called to administer the Sacrament of Baptism or the Lords Supper to persons in *Extremis*, where no other Minister could be had in due time, I could neither answer to God nor to my own conscience to refuse Baptism or the Lords Supper in that Case, and yet if I should put a restriction upon my self, I could not do it. From all which it may appear the Severity wherewith I am used by so long a Confinement, so very disproportionat to my alledged Offence, especially it having no foundation in Law, and now in an United Kingdom, should be far less used than formerly.

May it therefore please your Lordships to reconsider my Case, by Examining the Reasons of the Magistrates of *Edinburgh's Sentence* of Imprisonment, as they are naked in themselves with my Reasons of Suspension offered there against; and to take another view of the power of Ordination, and I shall not doubt but your Lordships will find my Imprisonment Illegal, and my Ordination valid, and therefore ordain me to be set at Liberty, According to Justice and your Lordships Answer.

JAMES GREENSHIELDS

Copy of the Summonds given by the Presbyteries Officer, to Mr. James Greenshields.

I *John Nasmyth* Officer to the Reverend Presbytery of *Edinburgh*, by vertue of their Order, do hereby Lawfully Summond and Warn you, Mr. *James Greenshields*, a pretended Preacher, to Compear before the said Presbytery, within the Old Church of *Edinburgh*, upon the 7th. Day of *September* next, in the Hour of Cause, or when or where it shall happen to be at the time, to give an account of your self, you being a Stranger here, and presuming at your own hand, without the Authority of any Judicatory, to exercise the Office of the Holy Ministry publickly on the Lords Day, and convening People to hear you. This conform to the Presbytery their Order, Dated the 24th day of *August* 1709 years. This I do before these Witnesses *Thomas Bell Baxter* in *Edinburgh*, and *William Bell* his Son, and I do deliver to you upon the 2^d day of *September* 1709 years.

John Nasmyth Presbytery Officer.

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THe Instrument made mention of, in the second Page of the preceeding Sheet is not here inserted, in regard after the said Sheet was fully Printed, the Lord Provost ordered the Clerk to give an Extract of the Magistrates Sentence. Likeas, the Sentence of the Presbytery of *Edinburgh*, made mention of in the said second Page of the foregoing sheet, is not here printed by it self, in regard it is fully narrated in the Bosom of the Towns Sentence, hereto Subjoined, which is as followeth,

Edinburgh the fifteenth day of *September*, one thousand seven hundred and nyne years.

THE WHICH DAY, The Right Honourable Sir *Patrick Johnston* Lord Provost of the City of *Edinburgh*, *George Lawson*, *George Lind*, *Robert Craig*, and *Henry Hawthorn*, Bailies, and Justices of her Majesties Peace within the City of *Edinburgh*, Liberties and Priviledges thereof, sitting in Judgement, anent an Act and Remit, from the Reverend Presbytery of *Edinburgh*, to the Magistrats as Justices, SHEWING that where

At *Edinburgh* the seventh day of *September* one Thousand seven Hundred and nine years, The Presbytery of *Edinburgh* having considered a Reference from the Session of the Colledge Kirk concerning Mr. *James Greenshields*, did thereupon Cite the said Mr. *Greenshields* before them, and he Compearing, produced an Act of Ordination by the Exaucterated Bishop of *Ross*, Dated *August* one Thousand six Hundred and nintey four years, bearing that He was Ordained a Presbyter according to the Rites and usages of the Church of *Scotland*, together with Testimonials from *Ireland*. was Interrogat by what Authority he did Preach, and exercise any part of the Ministry within the bounds of this Presbytery, without Call or Warrant from this Presbytery conform to Law, he did decline the Authority of this Presbytery and Church, and Subscribed the same, *Coram*. The Tenor whereof follows, *Whereas being Ordained a Minister of the Church of England, and has been of that Communion ever since and now am, and having occasion to come and to reside in my own Countrey, where for my benefit, and the benefit of these who were in the same circumstances with my self, I do in a Private House keep Divine Worship, according to the Liturgy of the*

Church

Church of England, and since by the Union of the two Kingdoms, I do believe that the Episcopal Church of Scotland is now Incorporated with the Church of England, and that though Presbytery is the Legal Establishment of North-Britain, yet I find there is no Law against those of the Communion of the Church of England, to Exercise their Worship in a privat manner, without intruding into any Church or Glebe of any Minister Established by Law, and therefore I do not think my self subject or liable to any Censure of any Ecclesiastick Judicatory in North-Britain, but only in so far as to give an account that I am Lawfully Ordained Minister, and free of any Scandal that may incapacitate me for such an undertaking. And whereupon I take Instruments, Sic Subscribitur James Greenshields. Which being Read, he was removed, and being called in again, and the Moderator having told him that he had Declined the Authority of this Church. To which he repl yed that this Church had no Jurisdiction over him as to Spiritual concerns, and adhered to his former Declinature. All which the Presbytery considering, do find that the said Mr. Greenshields, has in high contempt of this Church establishment by Law, Declined their Authority, that he has exercised the Ministry within the bounds of this Presbytery, without their allowance, which is an unwarrantable Intrusion, and Introduced a Form of Worship, contrary to the Purity and uniformity of the Worship of this Church Established by Law. Wherefore, the Presbytery did, and hereby do unanimously prohibit and discharge the said Mr. Greenshields to Exercise any part of the Office of the Holy Ministry within their Bounds, and Recommends to the Magistrates of Edinburgh, and other Judges Competent, to render this Sentence effectual, declaring always that the Presbytery reserves to themselves the further consideration of the whole affair. Extracted by me, Sic subscribitur, Nicol Spence Clerk

As the Act duely Signed by Nicol Spence Clerk to the said Presbytery bears, and the same being on the eight day of September instant, Read in presence of and considered by the saids Magistrates as Justices, They Granted Warrant to Henry Rankin, the Dean of Guild Officer for Citing the said Mr. James Greenshields to compear before them in the new Council Chamber of Edinburgh one the nyynth instant, by three a Clock in the afternoon, and accordingly the said Mr. James Greenshields being lawfully warned by the said Officer, and personally apprehended, and Compearing personally before them, they continued the said affair till next day being the tenth instant, and desired he might then attend in the New Council Chamber by ten of the Clock in the forenoon, and accordingly, the saids Magistrates having then met, they upon the said Mr. James Greenshields his compearance, caused read to him the said Act, and Remit of the said Presbytery, and after reading thereof, inquired at him if he would he obtemper the same, to which he answered that he could not comply with, or would he obtemper the said Sentence pronounced by the said Presbytery. WHEREFORE the Magistrates as Justices foresaid, in Pursuance of the foresaid Sentence of the said Reverend Presbytery and Remit to them, Did Prohibit and Discharge and hereby Prohibit and Discharge the said Mr. Greenshields to Preach or Exerce any part of his Ministerial function within the City of Edinburgh, Liberties and Priviledges of the same, with Certification to him, if he should contraveen the said Sentence, by doing the contrair thereof, they would upon his first Transgression imprison his Person within the Tolbooth of Edinburgh, and would otherwise proceed against him conform to Law, and there being application made by the Neighbourhood to the Magistrates, and Information given in, that notwithstanding of the Presbyteries Sentence, and their Certification, the said Mr. James Greenshields, had continued in exerceing the Ministerial Function within the City of Edinburgh in his Meeting-house, whereupon the saids Justices did this day again call for him before them, and did interrogat him if or not he used any part of the Ministerial Function since his last Sentence, Judically acknowledged he Preached and performed Divine Service publickly upon Sabbath last being the eleventh instant, whereupon they in pursuance of the foresaid Sentence of the Reverend Presbytry, and Certification given him, on the tenth instant, Ordained him to go to the Prison, and Tolbooth of this City, therein to remain, ay and while he found Caution that he should desist from the Exercise of his Ministry within this City, Liberties and Priviledges, in all time coming; or else that he should remove himself therefrom. EXTRACTED ADAM WATT

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